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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,679	08/27/2001	Majid L. Riaziat	267/032	5559
23639	7590	06/03/2005	EXAMINER	
BINGHAM, MCCUTCHEN LLP THREE EMBARCADERO CENTER 18 FLOOR SAN FRANCISCO, CA 94111-4067			LACYK, JOHN P	
			ART UNIT	PAPER NUMBER
			3736	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO. CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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09-940-679

EXAMINER

ART UNIT	PAPER
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53005

DATE MAILED:

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Commissioner for Patents

See attached

John P Lacy
Primary Examiner
Art Unit: 3736

1. The amendment filed on 03/14/2005 is non-responsive (MPEP § 821.03). The restriction was based on a combination-subcombination, as pointed out in the previous action, while applicant amends the preamble of claim 28 the claimed device is still directed only to the subcombination of the marker and therefore the restriction is still proper. Similarly with the marker block of claim 30. In applicant's election, applicant elects Group I directed to the marker system, however Group I was directed to the marker and marker block, not the marker system, which is Group II. Therefore making it unclear whether applicant's intend was to elect Group I to the marker and marker block or Group II to the marker system.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Lacyk whose telephone number is 571-272-4728. The examiner can normally be reached on Mon-Fri, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John P Lacyk
Primary Examiner
Art Unit 3736

J.P. Lacyk